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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/656,017    09/07/00    APRIGLIANO

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IM52/1011

EXAMINER
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OFFICE OF COUNSEL CODE 004  
NAVAL SURFACE WARFARE CENTER  
CARDEROCK DIVISION  
9500 MACARTHUR BOULEVARD  
WEST BETHESDA MD 20817-5700

LINK ART UNIT	PAPER NUMBER
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1722  
DATE MAILED:

10/11/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.  
09/656,017

Applicant(s)  
Aprigliano et al

Examiner  
Kuang Y Lin

Art Unit  
1722



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Oct 19, 2000
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☒ Notice of References Cited (PTO-832) 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☒ Information Disclosure Statement (PTO-1419) Paper No(s). 2 20) ☐ Other: \_\_\_\_\_

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1. Applicants are advised that claim 8-11 had been renumbered to claims 5-8. See Rule 1.126.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 4 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by either Zurecki et al (see , for example, col. 2, lines 8-2) or Longo et al (see, for example, col. 1, lines 41-45 and col. 4, line 61).

The claimed process steps read on that of prior art references.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was

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made in order for the examiner to consider the applicability of 35 U.S.C. 103© and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakamori et al and further in view of Combs.

Nakamori et al substantially show the invention as claimed except that they use the low pressure plasma spraying technique instead of Ospray technique for atomizing the alloy during coating process. However, Combs shows that it is conventional to use the Ospray technique for atomizing the alloy. In view of the prior art teaching as a whole, to use Ospray technique for atomizing the alloy in the coating process of Nakamori et al is deemed to be nothing more than an obvious matter of design choice. With respect to the claimed feature of use nitrogen to cover the molten alloy, since both prior art references show to use nitrogen gas for atomizing the same, it would have been obvious to also use the nitrogen gas for preventing the molten alloy of Combs from oxidizing.

6. Claims 1-3 and 5-8 are also rejected under 35 U.S.C. 103(a) as being unpatentable over either Zurecki et al or Longo et al and further in view of Combs.

The primary references substantially show the invention as claimed except that they use the low pressure plasma spraying technique instead of Ospray technique for atomizing the alloy during coating process. However, Combs shows that it is conventional to use the Ospray technique for atomizing the alloy. In view of the prior art teaching as a whole, to use Ospray technique for atomizing the coating alloy in the coating process of the primary references is

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deemed to be nothing more than a obvious matter of design choice. With respect to the claimed feature of use nitrogen to cover the molten alloy, since all of the prior art reference show to use nitrogen for atomizing the same, it would have been obvious also to use nitrogen gas for preventing the molten alloy of Combs from oxidizing.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dr. Kuang Lin whose telephone number is (703) 308-2322. The examiner can normally be reached on week day from 9:30 am to 6:00 pm.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0651.

Group Facsimile No.: (703) 305-7718 (for any document other than the amendment after final office action), or  
(703) 305-3599 (for the amendment after final office action only).

kyl

9-21-01



KUANG Y. LIN  
EXAMINER  
GROUP 320

1722